

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

BOBBY DON MUMPHREY, #2049717 §
VS. § CIVIL ACTION NO. 6:18cv523
DIRECTOR, TDCJ-CID §

ORDER ADOPTING REPORT AND RECOMMENDATION

Petitioner Bobby Don Mumphrey, a prisoner currently confined in the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed his petition for writ of habeas corpus (Dkt. #1), pursuant to 28 U.S.C. § 2254, seeking to challenge his felony conviction on various grounds. He ultimately seeks to be released from custody. The Director's response is due on January 11, 2019. The above-styled and numbered civil action was heretofore referred to United States Magistrate Judge John D. Love.

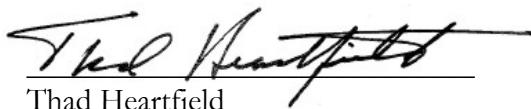
On December 6, 2018, Mr. Mumphrey filed a Motion for Writ of Mandamus. (Dkt. #13). Unaware that the Director had filed a motion for extension of time to file a response to Mr. Mumphrey's petition (Dkt. #11), he seeks to have the court compel the Director to file her response to his habeas petition post haste or grant his petition for writ of habeas corpus; thus, effectuating his release from state custody. The court granted the Director's motion for extension of time on December 3, 2018. (Dkt. #12).

The motion was referred to Magistrate Judge Love, who issued a Report and Recommendation concluding that Mr. Mumphrey's motion for writ of mandamus was moot and should be denied. (Dkt. #14). The Report of the Magistrate Judge, which contains proposed

findings of fact and recommendations for the disposition of the motion, has been presented for consideration, and no objections thereto having been timely filed, the court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts the same as the findings and conclusions of the court. It is accordingly

ORDERED that the Report and Recommendation (Dkt. #14) is **ADOPTED**. It is further **ORDERED** that Mr. Mumphrey's motion for writ of mandamus (Dkt. #13) is **DENIED** as moot in accordance with the Report and Recommendation (Dkt. #14).

SIGNED this the 8 day of January, 2019.



Thad Heartfield
United States District Judge